IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3643 OF 2007

Mr.Gopal Bhau Saheb Patil. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Samrat Jadhav for the applicant.

K.V.Saste, A.P.P. for the State.

CORAM: V.C.DAGA, J.

DATED: 1st November 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. The applicant is seeking bail in connection with C.R.No.I-189/2007 registered with Dombivali Police Station, Thane for the offences punishable under sections 376, 363, 366(A) read with section 34 of Indian Penal Code.

3. This bail application has been moved by the applicant after suffering adverse order dated 11th October, 2007 at the hands of the Additional Sessions Judge, Kalyan. The learned Sessions Judge, while rejecting bail application, has observed as under:

> Admittedly the applicant had made a bail application no.648/07 and said application has been rejected by this court by holding that there is prima facie involvement of the applicant in the said crime. It is true that it is true that it is the submission of the learned advocate for the applicant that at the time of incident the applicant was more than 16 years. Old and therefore as per sec.375 of I.P.C. the offence U/Sec.376 of I.P.C. will not attract. However, prima facie it reveals that the applicant had promised to marry with her and under the said pretext he committed rape on her. Therefore it can not be said that the prosecutrix had given voluntary consent to the applicant for sexual intercourse. Prima facie it appears that the present applicant is responsible for the said incident. Therefore, even if the investigation is completed, still then considering the role of the applicant and he heinous offence committed by him, I am of the view that the applicant is not deserves for bail....."

4. Having seen the allegations made in the F.I.R; the material available on record; and the observations made by the learned Sessions Judge while rejecting bail application as quoted hereinabove, I do not see any reason to take any contrary view.

5. In the result, application for bail is rejected.

JUDGE